IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.15439 of 2019
&
W.M.P.No.15386 and 15388 of 2019

Mr.Mritunjaya Singh .. Petitioner

Vs.

1. The Commissioner
Greater Chennai Corporation
Chennai - 600 003

2. The Assistant Revenue Officer
Zone-9, Revenue Department
Greater Chennai Corporation
No.1, Lake Area, 4th Cross Street
Nungambakkam, Chennai - 600 034 .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the first respondent viz Notice No.1 Property Tax General Revision 2018-2019 dated 11.10.2018 under S/1/18-19/873351 and quash the same consequently direct the 1st respondent to dispose of the petitioner representation dated 29.11.2018 in accordance with law.

For Petitioner : Mr.Uttam Joseph Cheriyan

For Respondents: Mr.T.C.Gopalakrishnan
Standing counsel for Corporation

O R D E R

Mr.Uttam Joseph Cheriyan, learned counsel on record for writ petitioner and Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation are before this Court.

2.This matter was listed under the caption 'FOR ADMISSION' in the motion list today. However, with the consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and is being disposed of.

3.This matter turns on a narrow compass. Subject matter of this writ petition pertains to levy of Property Tax on immovable property in Chennai, part owned by the writ petitioner. Such levy is under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity).

4.As part of general revision, the respondents had issued a notice dated 11.10.2018 proposing enhancement of Half Yearly property tax from existing Rs.7,603/- to Rs.38,000/- with effect from first Half Year of 2018-2019 i.e., from 01.04.2018. This 'notice dated 11.10.2018 bearing reference S/1/18-19/873351' shall hereinafter be referred to as 'impugned notice' for the sake of convenience and clarity.

5.Pursuant to the service of impugned notice on the petitioner, detailed objections were sent to the jurisdictional Regional Deputy Commissioner of Chennai Corporation vide communication dated 29.11.2018.

6. It is not in dispute that the jurisdictional Regional Deputy Commissioner has not passed any orders on the objections and made assessment.

7. When things stood as above, the writ petitioner was visited with a notice dated 09.03.2019 bearing reference k/m?9-t/J/e/f/vz;/Mh;1-DN-118/111/2019 which has been captioned 'Final Warrant Notice'. In other words, respondents are now attempting to collect property tax at the proposed enhanced rate without considering the objections and passing final Assessment Order. To be noted, the final Assessment Order is also subject to statutory appeal as provided under the relevant Rules.

8. Be that as it may, in the instant case what is of relevance is an order made by a Hon'ble single Judge of this Court being Order dated dated 04.02.2019 made in W.P.No.3231 of 2019. Hon'ble single Judge, following an earlier order of Hon'ble Division Bench in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465, has held that notices of the above nature are provisional notices, objections from assessees have to necessarily be considered and the question of appeal will arise only after final assessment is made.

9. In this view of the matter, the following order is passed:

a) Jurisdictional Regional Deputy Commissioner, Greater Chennai Corporation, shall consider the objections of the writ petitioner dated 29.11.2018 and pass an assessment order in accordance with law after considering all the objections and after giving an opportunity of personal hearing to the writ petitioner or his authorised representative.

b) The Assessment Order so passed by the jurisdictional Regional Deputy Commissioner shall be communicated to the writ petitioner in a manner known to law under due acknowledgement within 10 working days from the date of the order;

c) The Final Warrant Notice dated 09.03.2019, bearing reference k/m?9-t/J/e/f/vz;/Mh;1-DN-118/111/2019, though not assailed, is set aside with liberty to Chennai Corporation to initiate necessary action subject, of course, to the final outcome of the proceedings before the Regional Deputy Commissioner and if there is any delay or default thereafter;

d) In the light of the order that has been passed now, there shall be an order of status-quo subject, of course, to the writ petitioner paying the present Half-Yearly tax of Rs.7,063/- per Half Year without any delay or default. This order of status-quo shall continue until filing of the objections and passing of Assessment Order by the jurisdictional Regional Deputy Commissioner in the aforesaid manner. If the order is adverse to the writ petitioner, the order of jurisdictional Regional Deputy Commissioner shall be kept in abeyance for a further period of fortnight to enable the writ petitioner to pursue the statutory remedy available to the writ petitioner.

e) It is made clear that the order of jurisdictional Regional Deputy Commissioner being kept in abeyance, if fully/partly adverse to the writ petitioner, is only for the purpose of writ petitioner to pursue statutory remedy i.e., appeal to the Taxation Appellate Tribunal. If the writ petitioner chooses to pursue statutory remedy, all the rules pertaining to the appeal will apply.

This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Commissioner,
 Greater Chennai Corporation,
 Chennai - 600 003.

2. The Assistant Revenue Officer,
 Zone-9, Revenue Department,
 Greater Chennai Corporation,
 No.1, Lake Area, 4th Cross Street,
 Nungambakkam, Chennai - 600 034.

+1cc to M/s.S.Sivasangaran, Advocate Sr.47195
+1cc to M/s.T.C.Gopalakrishnan, Advocate Sr.47081

W.P.No.15439 of 2019

bp[co]
srg 16/07/2019